

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
HAZARDOUS WASTE MANAGEMENT PROGRAM
MANAGEMENT MEMO RESCISSION DOCUMENT

MANAGEMENT MEMO: #EO- 97 003-MM

TITLE: Compliance in Light of the Regulatory Structure Update Project

AFFECTED PROGRAMS:

Hazardous Waste Management Program
Statewide Compliance Division
State Regulatory Program Division
Permitting Division
Site Mitigation Program
Office of Legal Counsel and Criminal Investigations
Criminal Investigations Branch

STATEMENT OF RESCISSION:

Management Memo #EO-97-003-MM is hereby rescinded for the following reason:

The Regulatory Structure Update Project is no longer in existence. Therefore, this management memo is obsolete, serves no purpose, and should be removed.

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MANAGEMENT MEMO

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TITLE: Compliance in Light of the Regulatory Structure Update Project

AFFECTED PROGRAMS:

Hazardous Waste Management Program
Statewide Compliance Division
State Regulatory Program Division
Permitting Division
Pollution Prevention Program
Site Mitigation Program
Office of Legal Counsel and Criminal Investigations
Criminal Investigations Branch
Certified Unified Program Agencies, other local agencies, and local prosecutors.

EXISTING STATUTES OR REGULATIONS AFFECTED BY IMPLEMENTATION OF THIS MANAGEMENT MEMO:

All regulations which are being changed as a result of the Regulatory Structure Update (RSU) project.

BACKGROUND:

The RSU is a comprehensive review and refocusing of California's system for identifying and regulating the management of hazardous waste. The RSU includes an evaluation of all aspects of California's hazardous waste regulatory program which differ from the federal Resource Conservation and Recovery Act (RCRA) program. The RSU's ultimate goal is to utilize current science and experience to reduce unnecessary regulatory burden while retaining requirements needed to protect the public health and safety and the environment of California.

Reviewing and revising components of California's hazardous waste regulatory program is designed to:

- Revise the California waste and hazardous waste classification system (as it differs from the federal system) to reflect the latest science;
- Eliminate or modify unnecessary or ineffective management standards and program requirements;

- Streamline the authorization requirements, including creating self-implementing standards for certain wastes and activities; and
- Establish a uniform compliance protocol and a more effective, less burdensome tracking system.

Each RSU task will go through the following basic steps:

- Scoping paper (scoping of issue and work required to identify and evaluate alternatives);
- Concept paper (alternative identification, evaluation, and recommendation);
- Implementation memorandum (reflects final decision on regulatory changes and desired statutory changes, including any changes from concept paper recommendations);
- Formal public notice of proposed regulations; and
- Draft and final regulatory changes (formal rulemaking process).

Various changes to the existing regulations under Title 22 of the California Code of Regulations (CCR) will result from the implementation of recommendations from the RSU. Once a final RSU decision is announced, it will take some time before the RSU decision can be put in place. Prior to the effective date of any regulatory changes resulting from RSU recommendations, DTSC must apply consistent criteria in initiating enforcement actions for violations of current requirements.

Currently, DTSC enforces the Hazardous Waste Control Law and the implementing regulations under Title 22 of the CCR through the use of various administrative, civil and/or criminal actions, compliance schedules, fines, and/or penalties. A proposed alteration of the standards may indicate a need to reevaluate the circumstances under which enforcement tools are applied.

This management memo establishes the methodology for consistent handling of compliance actions prior to final adoption of regulations which are being modified or rescinded through the RSU process.

RCRA AUTHORIZATION IMPACT:

Because the implementation of this management memo deals only with violations of state-only requirements, RCRA authorization would not be affected by changes to the enforcement approach.

ACTION:

DTSC will approach compliance for planned changes to the regulations in light of the Regulatory Structure Update as follows:

DTSC will continue to apply and enforce existing regulations until final changes are filed with the Secretary of State's Office, unless and until DTSC states otherwise for a particular RSU task. Where DTSC believes it is prudent to take a different approach on a specific RSU task, DTSC would explain such a differing approach either in the final Implementation Paper for that RSU task or in a Management Memo explaining DTSC's alternative approach.

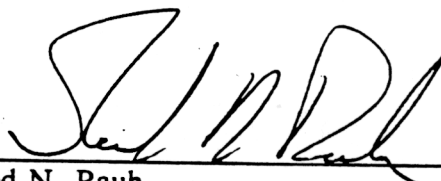
In short, DTSC will not make exceptions to current requirements until final adoption of revised requirements occurs, unless the DTSC clearly announces a different approach for a specific task in anticipation of the final planned regulatory change.

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